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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of Secretary

In the Matter of

Advanced Television Systems  
and Their Impact Upon the  
Existing Television Broadcast  
Service

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MM Docket No. 87-268

PETITION OF CBS INC. FOR PARTIAL RECONSIDERATION  
OF THE SIXTH REPORT AND ORDER

CBS Inc., by its attorney, hereby petitions the Commission for partial reconsideration of its Sixth Report and Order in the above proceeding, in which it "adopts a Table of Allotments for digital television (DTV), rules for initial DTV allotments, procedures for assigning DTV frequencies, and plans for spectrum recovery."<sup>1</sup>

I. Introduction.

The adoption of a Table of Allotments ("Table") to implement the transition to digital television broadcasting represents a milestone of possibly unequalled importance in the history of the medium. It signals the official beginning of that transition after a decade

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<sup>1</sup> Sixth Report and Order, MM Docket No. 87-268, released April 21, 1997 at ¶1.

of groundwork, and this Commission is to be commended for its critical role in making DTV a reality as quickly as practicable. For its part, CBS has been involved in the government/industry collaboration in this process from the beginning. It has championed the importance of HDTV programming to the ultimate success of the transition, and is among those who have stated their intention not just to participate in digital television but to lead it by accelerating the construction of facilities, where possible, in some of the nation's largest television markets.<sup>2</sup>

Designing the Table was undoubtedly among the most complex undertakings in the Commission's history. Because of this complexity, it is simply unrealistic to expect the Table to be perfect in every respect. Because the allotment/assignment plan is so important, the Commission should be receptive to discrete, feasible changes which further the consensus goals of replication of NTSC service, and maximization of DTV service, in the digital environment, and it should make an ongoing commitment to an administratively efficient mechanism for improving and adjusting the Table in cooperation with the industry.

In support of those goals, CBS has joined others in a petition for partial reconsideration and clarification<sup>3</sup> filed today in this proceeding which is primarily intended to bring to the Commission's attention some problems with the Table which we hope and

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<sup>2</sup> Fifth Report and Order. MM Docket No. 87-268, released April 21, 1997 at ¶76, fn 164. See, letter of April 2, 1997 from Peter A. Lund to the Commission ("Lund Letter").

<sup>3</sup> Petition for Partial Reconsideration and Clarification of the Fifth and Sixth Reports and Orders Submitted by the Association for Maximum Service Television, Inc. and Other Broadcasters (June 13, 1997) ("Joint Petition").

expect can be corrected with discrete solutions which enhance the Table's goals without disrupting its fundamental framework. CBS intends to work within the industry to attempt to reach consensus on such solutions promptly and, we hope, with the full cooperation and encouragement of the Commission.

The purpose of this separate petition is simply to point up a few specific problems which the Sixth Report and Order and the Table present for certain CBS owned stations for which the most fair and technically appropriate solutions may ultimately include limited modifications to the Table. CBS is in the process of analyzing its DTV channel assignments and power levels with a view toward gaining further understanding of the nature and extent of service replication and interference problems which may exist, as well as determining how these problems can be ameliorated. However, because of the complexity of both the specific situations of special interest to us and the more general issues involving the Table which are described more fully in the Joint Petition, CBS is not in a position at this time to propose definitive solutions. As noted above, CBS intends to work with the industry to develop consensus, where possible, on discrete improvements to the Table just as soon as sufficient information is available.

## II. The Commission Should Adjust The DTV Table To Use The Modified NTSC Facilities Of WWJ-TV, Detroit As The Baseline For Its Service Area Replication.

The Commission includes in the database used for the DTV Table "new station parameters corresponding to modifications of [NTSC] facilities granted [on or before

April 3, 1997]....,”<sup>4</sup> without provisions for Table adjustments or other favorable treatment for any application for facility modifications still pending on that date. This decision may prejudice CBS severely with respect to the ability of CBS’s owned station in Detroit, WWJ-TV, to serve the Detroit audience with local and CBS Television Network programming.

CBS understands the Commission’s incentive to make a “bright line” decision as to the NTSC signal parameters it used for the Table it released on April 21 with its Sixth Report and Order. However, CBS urges that the Commission must at least be willing to correct individual inequities caused by that decision in the process of adjusting the Table. In this case, CBS filed an application for a modification to its Detroit facilities in March 1995 (File no. BPCT-950330KF), and amended it in December 1995, with the intention of ameliorating a serious NTSC signal coverage problem which affected its ability to reach its core Detroit-area audience. CBS has committed itself to spend more than \$11 million on the upgrading of the WWJ-TV facility.

Although the modification application had been on file with the Commission for more than two years, and, we believe, the Commission had completed the coordination process with Canadian authorities well before April 3, the application was not granted until April 21, 1997. This was the same day the DTV Table was released, but 18 days after the deadline for inclusion of the modified signal parameters in the NTSC database for DTV channel assignment purposes. As a result, WWJ-TV’s proposed DTV assignment

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<sup>4</sup> Sixth Report and Order, at ¶33.

does not reflect its new NTSC technical parameters, but instead will likely perpetuate serious signal coverage deficiencies in the digital environment similar to those intended to be corrected by the NTSC modification application.<sup>5</sup>

In reply comments in this proceeding, the Broadcasters Caucus urged the Commission to include in the NTSC database used to create the Table all NTSC facility modifications on file as of July 25, 1996 and, as to applications still pending when the Table is adopted, to revise the Table to replicate the modified service areas when the applications were granted.<sup>6</sup> Even if the Commission continues to deny the general relief requested in those reply comments, CBS urges it to grant specific relief, including DTV channel reassignments, in instances where fundamental unfairness would otherwise result.<sup>7</sup> WWJ-TV's situation meets that criterion since its modification application was on

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<sup>5</sup> It should be noted that since WWJ-TV's NTSC channel is located outside of the "core" spectrum area (on channel 62), it is unlikely to be able to revert to the use of that channel (with its superior new coverage) after the transition is completed.

<sup>6</sup> Broadcasters Caucus Reply Comments On The Sixth Further Notice Of Proposed Rulemaking, January 24, 1997, at p. 21. July 25, 1996 was the date of adoption of that Sixth Further Notice. The Caucus argued that it is fundamentally unfair to impute notice to applicants that NTSC modifications filed before that date would be subject to prejudicial treatment in the DTV allotment/assignment process.

<sup>7</sup> In markets with particularly difficult marketwide allotment problems, of which Detroit may be one, the Commission should be willing to assign a DTV channel in the 60-69 range in isolated circumstances where no other alternative would be sufficient to correct particular inequities.

file long before July 25, 1996, was fully processed and ready for grant on April 3, 1997, but favorable action was apparently held up past that date without good cause.<sup>8</sup>

III. Ongoing Analysis Of The Table May Reveal The Need For, And The Feasibility Of, Adjustments To The Table In The Markets Of Several CBS-Owned Stations.

The following list of stations includes those with respect to which CBS has enough information at this time to know that problems with its digital channel assignments exist, either on the face of the Table or because of factors which were not taken into account in developing the Table. It is possible that practical solutions will present themselves when we have had sufficient time to review essential information, such as the text of Office of Engineering and Technology Bulletin #69, which is intended to provide “[g]uidance for evaluation of interference using the Longley-Rice methodology...”<sup>9</sup>

A. KCBS-TV, Los Angeles. KCBS-TV is adversely affected by the dramatic projected audience loss which the Table predicts for several stations in Los Angeles and which is described more fully in the Joint Petition. CBS intends to work with the industry in the first instance to attempt to develop a consensus solution to the situation in this market. CBS is in the process of analyzing the interference potential from NTSC and other DTV stations into KCBS-TV’s digital signal on Channel 60. At this point insufficient information is available to determine whether a different channel assignment or

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<sup>8</sup> It is particularly ironic that WWJ-TV finds itself in this situation since it is one of the top-ten market DTV facilities which CBS volunteered to construct, absent unforeseeable or uncontrollable circumstances, by November 1, 1998. See Lund Letter, supra.

<sup>9</sup> Sixth Report and Order, Appendix E, at p. 33.

increased power above the 828 kW assigned would be feasible and effective ways to ameliorate the substantial projected population loss due to new interference from NTSC and DTV stations.

B. WBBM-TV, Chicago. WBBM-TV has been assigned Channel 3 at an ERP of only 2.5 kilowatts. This assignment presents potential problems because of projected interference and other operational considerations. There will be co-channel interference from existing NTSC Channel 3 assignments in Champaign, IL, Kalamazoo, MI and Madison, WI. In addition Channel 3 is susceptible to motor, impulse noise, and sporadic E-layer seasonal interference and other difficulties with for digital transmissions may be encountered. CBS is concerned that the use of Channels 3 and 4 by the consumer industry for tuning VCRs and cable television devices may cause a problem within WBBM-TV's market area. NTSC Channel 4 in Milwaukee, WI, is located only 134 kilometers (84 miles) from WBBM-TV, and its Grade B contour will overlap the DTV service contour of WBBM-TV. Viewers in the overlap area may experience operational difficulties since both Channel 3 and 4, the only available channel selections for tuners on most VCRs, will be in use for over the air broadcasting.

C. WWJ-TV, Detroit. We have described above the inequity caused by the failure of the Commission to grant WWJ-TV's application to modify its NTSC facility in a timely manner. The separate regional problem with the Table affecting the Detroit market is described in the Joint Petition. CBS hopes and expects that a solution for general improvements in the Table's impact in the Detroit market will take into account WWJ-

TV's modified NTSC signal parameters. CBS is also analyzing individualized solutions which would take into account those parameters, but we do not yet have sufficient information available to propose definitive solutions.

D. KCNC-TV, Denver. North Table Top Mountain is one of the few FCC-recognized "quiet zones," which effectively limits the transmission by new RF radiation sources in its vicinity. The Commission did not take this "quiet zone" into account in computing the digital service area and population figures for the Denver market which accompany the Table. The "quiet zone" designation at the time it was made was based on the fact that research operations related to radiofrequency transmissions would be conducted at the site by the Department of Commerce and other government agencies. It is not clear to what extent this site is currently used, or is intended to be used in the future, for such research operations. We urge the Commission to consult with the relevant governmental agencies to evaluate the continuing need for this "quiet zone," taking into account its potential impact on DTV service.

In any case, CBS is presently investigating the impact of this situation on the propagation of its DTV signal on Channel 35 in the general direction of that zone. If that "quiet zone" limitation is maintained, it is possible that the station's digital coverage of key areas of its Designated Market Area would be substantially impaired. As with the other examples cited above, sufficient information is not yet available to propose a solution.



#### IV. Conclusion.

In joint initial comments in this phase of the DTV implementation proceeding, representatives of more than 600 television stations asked the Commission to “develop an interim joint industry process to consider and incorporate reasonable channel changes to the DTV Table both before and after it was adopted.”<sup>10</sup> This proposal was later amplified and formalized by the Broadcasters Caucus in a petition for further rulemaking.<sup>11</sup> We urge the Commission to state clearly on reconsideration its intent to adopt such a process so that the general and specific issues raised in good faith in the Joint Petition, in this petition, and by other petitions will be given serious consideration in what must be an ongoing process of government/industry cooperation to analyze and process discrete adjustments to the Table. Such an ongoing process will help to ensure that these often very complex issues will be handled systematically, with an appropriately heavy reliance on

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<sup>10</sup> Broadcasters’ Comments On The Sixth Notice Of Proposed Rulemaking, MM Docket No. 87-268, filed November 22, 1996.

<sup>11</sup> Broadcasters Caucus Petition For Further Notice Of Proposed Rulemaking, MM Docket 87-268, filed January 10, 1997.

industry/government cooperation, so that the digital transition will proceed without interruption or unnecessary delay.

Respectfully submitted,

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